

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA	)	
	)	
V.	)	Crim. No. 01-455-A
	)	Hon. Leonie M. Brinkema
ZACARIAS MOUSSAOUI	)	

GOVERNMENT’S REPLY TO DEFENDANT’S  
RESPONSE TO COURT ORDER

In reply to defendant’s “Response to Court Order Of June 12, 2002” the United States offers several points about discovery in this case.

First, the defense posits that the United States regards all classified information that we have turned over in discovery in this case to be *Brady* or Rule 16 material. The defense is mistaken on this point. We have turned over a substantial amount of classified discovery in this case that is *potential* Rule 16 or *Brady* material. We do not believe that all of that material is exculpatory or even properly discoverable, but, to be cautious, we have produced it. In addition, as the Court is also aware, we produced a significant amount of information from U.S. intelligence agencies to the Court to review *in camera* as part of our C.I.P.A. § 4 filing.

Further, in March, to try to limit the amount of discovery to be produced and reviewed by the defense in this case, we asked the defense to list for us the material they were interested in receiving. In response, the defense sent us a letter outlining very broad categories of information. These demands were so extensive that we considered the exercise meaningless as a manner of narrowing the material sought by the defense, and we instead continued to identify and produce material to satisfy our discovery obligations.

Further, the discovery in this case is, to some degree, ongoing. As we previously advised defense counsel, there is some discoverable evidence that continues to come into the possession of the United States. For instance, documents and evidence seized in Afghanistan and Pakistan are being processed, translated, and evaluated for whether they are discoverable. Also, we are reviewing information on, for instance, detainees held at Guantanamo Bay, Cuba, for exculpatory information, and, as yet, have found no exculpatory information.

Next, the defense is incorrect in its assertion (in the Response to the Court Order and in the Motion for Access filed June 7, 2002) that the Court's Protective Order for Unclassified but Sensitive Information (filed February 5, 2002) bars the defendant from access to the "Particularly Sensitive Discovery" items. The defendant may have access to the particularly sensitive discovery, but he is restricted by the Court's Order from disseminating such information.

Finally, beyond these several points, the United States cannot reply to defendant's motions because the defense has redacted all indications of the items they regard as exculpatory or mitigating.

Respectfully Submitted,

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By: /s/  
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CERTIFICATE OF SERVICE

I certify that on June 13, 2002, a copy of the attached Government's Reply to Defendant's Response to Court Order were sent via facsimile to defense counsel below:

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\_\_\_\_\_/s/\_\_\_\_\_  
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